

# Respectful and inclusive behaviours policy

Proactively preventing and managing unacceptable behaviours





# Acknowledgement of Country

The NSW Environment Protection Authority acknowledges the Traditional Custodians of the land on which we live and work, honours the ancestors and the Elders both past and present and extends that respect to all Aboriginal people.

We recognise Aboriginal peoples' spiritual and cultural connection and inherent right to protect the land, waters, skies and natural resources of NSW. This connection goes deep and has since the Dreaming.

We also acknowledge our Aboriginal and Torres Strait Islander employees who are an integral part of our diverse workforce and recognise the knowledge embedded forever in Aboriginal and Torres Strait Islander custodianship of Country and culture.

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Published by:

**NSW Environment Protection Authority**

6&8 Parramatta Square  
10 Darcy Street,  
Parramatta NSW 2150  
Locked Bag 5022,  
Parramatta NSW 2124

**Phone:** +61 2 9995 5000 (switchboard)

**Phone:** 131 555

(NSW only – environment information and publications requests)

**Fax:** +61 2 9995 5999

**TTY users:** phone 133 677,  
then ask for 131 555

**Speak and listen users:**

phone 1300 555 727,  
then ask for 131 555

**Email:** [info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)

**Website:** [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

Report pollution and  
environmental incidents

**Environment Line:** 131 555 (NSW only) or

[info@epa.nsw.gov.au](mailto:info@epa.nsw.gov.au)

See also [www.epa.nsw.gov.au](http://www.epa.nsw.gov.au)

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# Contents

<b>1. Purpose</b>	<b>1</b>
Policy statement – respect and inclusion at work	1
1.1. Policy objectives	1
1.2. Guiding principles	1
Work, health and safety statement	2
Diversity, equity and inclusion statement	2
1.3. Scope and application	3
1.4. Non-compliance	4
<b>2. Acceptable behaviours</b>	<b>5</b>
Respectful communication	5
Collaboration and cooperation	5
Legitimate and reasonable management actions	5
Respectful disagreements	5
Professionalism	5
Empathy and consideration	5
Constructive feedback	5
Integrity and honesty	5
Inclusivity and diversity	5
Conflict resolution	6
Work-life balance	6
Continuous learning	6
Offering assistance	6
Celebrating achievements equally	6
<b>3. Unacceptable behaviours</b>	<b>6</b>
3.1. Unacceptable behaviours defined	6
Negatively applying power imbalances	6
Bullying	6
Discrimination	6
Exclusion	7
Harassment	7
Humiliation/defamation	7
Intimidation	7
Sexual harassment	8
Vexatious disclosures and/or reports	8
Victimisation	8
Vilification	9
Other	9
<b>4. Prevention – managing the risk of unacceptable behaviour</b>	<b>9</b>
Risk assessment	10
Transparency	10
Knowledge and education	10
<b>5. Reporting and responding</b>	<b>10</b>
5.1. Reporting	10
5.2. Responding	10

5.3. A range of pathways towards resolution	11
Support and disclosure	12
5.4. Responding to and reporting <b>unacceptable behaviour</b> as a bystander	12
5.5. How reports will be handled	12
5.6. Protection against detrimental actions	12
<b>6. Additional materials</b>	<b>13</b>
6.1. Relevant documentation	13
6.2. Relevant legislation	13
6.3. Monitoring and evaluation	14
6.4. Roles and responsibilities	15
<b>Appendix A Acceptable behaviours examples</b>	<b>I</b>
<b>Appendix B Unacceptable behaviours examples</b>	<b>IV</b>
<b>Appendix C Procedure guide – managing a complaint, allegation, or issue</b>	<b>IX</b>
C.1. Issues, complaints or allegations	IX
C.2. <i>Pathway 1</i> – Local (informal) resolution for employees	IX
C.3. <i>Pathway 2</i> – Supported resolution (semi-formal)	X
C.4. <i>Pathway 3</i> – Formal resolution	XI
<b>Appendix D Options for addressing issues</b>	<b>XII</b>

# 1. Purpose

## Policy statement – respect and inclusion at work

The EPA is committed to creating a safe, inclusive and respectful work environment; it has zero tolerance towards workplace bullying, harassment, sexual harassment, discrimination or racism. The EPA also commits to taking all reasonable steps to prevent bullying, harassment, sexual harassment, victimisation, and unlawful discrimination from happening in the workplace. Furthermore, the EPA responds appropriately to any workplace issues, complaints or allegations in a sensitive, fair and confidential manner.

All workers should feel safe, included and respected at work. The purpose of this policy is to make sure both the EPA and its workers have a clear understanding of behaviour standards, legal rights, and responsibilities for respectful and inclusive behaviours and workplaces. The policy establishes mandatory requirements for preventing and managing unacceptable behaviours and hazards. It educates workers on identifying, preventing, and responding to such issues while minimising harm and ensuring compliance.

**Unacceptable behaviours** in the workplace refer to actions or conduct that contradict the [EPA Code of Ethics and Conduct](#) (2022)<sup>1</sup> and [The Ethical Framework for NSW Government Sector Employees](#). These may include actions that create a hostile atmosphere, discriminate against others, or otherwise go against established standards of professional conduct within the organisation. See section 3 and **Appendix B** for further details on **unacceptable behaviours**.

Through robust policies, clear guidelines, and comprehensive training programs, organisations can create a culture of respect, accountability, and zero tolerance for **unacceptable behaviours** that hinder diversity, equity, and inclusion. This proactive approach reinforces the values of fairness, respect, and mutual understanding, creating an environment where all individuals feel safe, valued, and empowered to contribute their unique perspectives and talents.

### 1.1. Policy objectives

- Ensure respectful and inclusive behaviours in relation to the workplace, demonstrating the EPA's values and all requisite ethical and behavioural standards as stipulated in the *EPA Code of Ethics and Conduct*.
- Define respectful and inclusive behaviours (otherwise known as **acceptable behaviours**) and provide clear examples (see section 2 & **Appendix A**)
- Define **unacceptable behaviours** and provide clear examples (see section 3 & **Appendix B**)
- Specify obligations for workers and leaders to prevent and appropriately manage perceived or reported instances of **unacceptable behaviours** (see section 4)
- Provide options for responding, disclosing, escalating, and reporting **unacceptable behaviours** (see section 5, **Appendix C**, & **Appendix D**).

### 1.2. Guiding principles

**Consistent leadership:** leaders continuously reinforce what are acceptable and unacceptable behaviours, model safe and respectful behaviour and foster a safe reporting culture.

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<sup>1</sup> See the [EPA Managing Misconduct Policy and Procedure Guide](#) (2023) for details on responding to misconduct. Defined terms common between EPA policies are also listed.

**This is a work health and safety issue, as well as an ethics and conduct issue:** all reasonably practicable steps are taken to eliminate or minimise the health and safety risks of unacceptable behaviours, unethical conduct, and misconduct in the workplace.

**Prevention:** unacceptable behaviours are prevented by addressing inequalities and unequal power relations as the key drivers and identifying and managing key risk factors.

**Early intervention:** early intervention approaches are used, where possible, to address unacceptable behaviours and prevent escalation.

**Responsive to diverse needs:** understanding, respecting, and embracing the many diverse aspects of a person's identity in preventing and responding to unacceptable behaviours.

**All parties are treated fairly and supported:** action to address unacceptable behaviours prioritises the rights, needs and wishes of the reporter and should ensure enough support is provided to the individual allegations are made against, including education and behavioural change options, while ensuring procedural fairness to all parties.

**Procedural fairness:** The methods we use to determine outcomes must be fair and must deal with the issue as timely, efficiently, and transparently as possible. (For further details see 'Natural justice (procedural fairness)' in **Appendix B** of the [EPA Managing Misconduct Policy and Procedure Guide](#) (2023).)

<h3>Work, health and safety statement</h3> <p>At the EPA we prioritise the safety, health, and wellbeing of our employees. We understand that promoting respectful and inclusive behaviours is integral to our work, health and safety practices. We are committed to creating a workplace culture that values diversity, combats discrimination, and addresses psychosocial hazards, ensuring that every individual feels respected, included, and supported. By fostering a respectful and inclusive environment, we aim to safeguard the mental, emotional, and social wellbeing of our employees and maintain a healthy and thriving workforce.</p>	<h3>Diversity, equity and inclusion statement</h3> <p>At the EPA we are committed to achieving diversity, equity, and inclusion. We recognise this depends on effectively preventing, managing, and reducing <b>unacceptable behaviours</b> within the workplace.</p> <p>While creating and fostering diverse, equitable, and inclusive workplaces is crucial, it is equally important to address and eliminate any behaviours that undermine these principles. This policy document serves as the primary policy towards proactively progressing diversity, equity and inclusion.</p>
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## Duty of care

The EPA's wellbeing and work, health, and safety framework (in prep.) details the work, health and safety obligation on the EPA to:

- protect the physical and psychological health, safety and welfare of all workers, contractors, and visitors to the workplace
- provide information and training on health and safety issues.

There is a general obligation on individual workers to take reasonable care of the health, safety, and welfare of others and to cooperate with EPA management efforts to comply with wellbeing, health, and safety requirements. (For further details see 'Duty of care' under the Managing misconduct policy, and duties of workers under s.28 of the WHS Act.)

Actions, behaviours, or omissions that breach conduct requirements may also breach this duty of care by exposing co-workers to negative health, safety, or welfare conditions.

Supervisors and senior managers have a duty of care to protect the health, safety, and wellbeing of workers. They must take action as detailed in this policy when they suspect misconduct, or an allegation of misconduct has been brought to their attention.

The EPA treats all complaints and allegations seriously and commits to managing them in a professional manner.

## 1.3. Scope and application

This policy and procedure guide applies to all EPA **workers** when they are **at work** or in the **workplace**; i.e:

- to all **employees** of the EPA (including all leadership and management personnel) – whether on an ongoing, fixed term, casual, or temporary basis, or on secondment to the EPA  
**Note:** This definition arises from the NSW [Government Sector Employment Act 2013](#) (GSE Act), its Regulation and Rules; with section 7 of the NSW [Work Health and Safety Act 2011](#) (WHS Act) referring to **employees** within its' definition of **worker**. GSE matters are further detailed in the [EPA Managing Misconduct Policy and Procedure Guide](#).
- to volunteers, contingent workers, independent contractors (including employees of a contractor or subcontractor), consultants engaged by the EPA, trainees, or a student gaining work experience.  
**Note:** Workers engaged through third parties (e.g. volunteers, contingent workers, independent contractors, and consultants) will need to meet engagement and other requirements as set out in the terms of the contract. For issues relating to non-employee workers, seek advice from the [Manager People Partners \(People, Culture, & Capability Branch\)](#).

The **workplace** is a place where work is carried out for the agency and includes any place a worker goes, or is likely to be, while at work (WHS Act s.8). The workplace – or being **at work** – can also extend to conduct taking place out of hours.

Also, this policy applies to interactions between **workers**, interactions between **workers** and third parties, work-related social functions, work-related online spaces, and includes situations where there is a connection to employment including (but not limited to):

- **Work-related duties and locations**
  - all aspects of employment, recruitment and selection, conditions and benefits, training and promotion, task allocation, shifts, hours, leave arrangements, workload, equipment, and transport
  - in online spaces, including email, Microsoft Teams and social media platforms where the conduct is in connection with the employment (e.g. remote work) or involving online communication between workers or between a worker and a third party.
  - on-site, off-site, work-related social functions and conferences – wherever workers may be for work-related duties, including working from home
  - in vehicles while on the way to/from work functions or meetings
  - any other location in situations where the conduct started in the workplace and continued outside the workplace and vice-versa.
- **Interactions with third parties**
  - Interactions between workers and third parties (including visitors, clients or customers) where it happens in connection with any work-related activity
  - in a place where the worker is working at a different location (e.g. at another business premises).
- **Out of work hours interactions** where there is a relevant connection to the employment relationship; this includes, but is not limited to, interactions:
  - at social functions sponsored and paid for by the EPA
  - at social functions in connection with the team/workplace, but not sponsored or paid by the EPA
  - at after-parties to such events (regardless of their location)
  - in accommodation (e.g. hotel rooms) associated with or provided by the EPA
  - online via use of technology and social media.

For more information please refer to the [Unacceptable Behaviours Out of Work Hours Guidelines](#) (on Horizon).

## Exceptions

The following types of matters are **not** dealt with under this policy:

Exception	Refer To
Suspected or alleged unsatisfactory performance	<a href="#">EPA Managing for Performance Policy and Procedure Guide (2023 revision in prep.)</a>
Allegations of corrupt conduct, such as fraud, bribery, theft, embezzlement, obtaining or offering secret commissions, perverting the course of justice, illegal drug dealings, and misconduct including breaches of trust	<a href="#">EPA Code of Ethics and Conduct</a> and <a href="#">Fraud and Corruption Control Policy</a>
Allegations of misconduct (unacceptable behaviours that are far from compliance)	<a href="#">EPA Managing Misconduct Policy and Procedure Guide (2023)</a>
Difficulties or conflict with the interpretation, application, or operation of an award	<a href="#">Manager People Partners</a> (People, Culture & Capability Branch)
Matters that are subject to proceedings in the Industrial Relations Commission or any other formal review or appeal process	Seek advice from the <a href="#">Manager People Partners</a> , who will liaise with the Employee Relations Unit
Complaints and allegations made by people who are not EPA employees or contracted to do work for us, such as visitors	<a href="#">EPA Complaints Handling Policy (2023)</a> and the <a href="#">Managing Aggressive Stakeholders Procedure</a>
Public Interest Disclosures	<a href="#">EPA Public Interest Disclosures Policy and Procedures</a>

## 1.4. Non-compliance

Workplace bullying, harassment, sexual harassment, victimisation, and unlawful discrimination are not tolerated by the EPA. As well as breaching this policy, these behaviours may also breach State and/or Commonwealth laws. Because of this, legal action can be taken against individuals who breach this legislation, as well as against the EPA. The EPA can be held legally responsible (“**vicariously liable**”) for acts of bullying, harassment, sexual harassment, victimisation, and unlawful discrimination that take place in the workplace or in connection with a person’s employment if the EPA fails to take all reasonable steps to prevent the behaviour.

Depending on the circumstances, non-compliance with this policy may be viewed as:

- a human resource support issue
- an unsatisfactory performance matter needing corrective action
- a misconduct matter (see note below)
- or it may be managed via another approach indicated by the *EPA Code of Ethics and Conduct* and its associated policies and guidelines.

**Note:** Unacceptable behaviours that contravene this policy may amount to misconduct under the GSE Act and may otherwise be unlawful. The EPA will deal with misconduct in accordance with the requirements of s.69 of the GSE Act, the Government Sector Employment Rules 2014 (NSW), applicable laws and any other relevant industrial instruments; see the Managing Misconduct Policy for details.

## 2. Acceptable behaviours

As part of the EPA embedding and maintaining a respectful, inclusive, and safe work environment for all workers are required to apply the Public Sector ethical framework and values.

- Integrity
- Trust
- Service
- Accountability

Under this policy, respectful and inclusive behaviours (otherwise known as **acceptable behaviours**) can be shown in the following ways (see **Appendix A – Acceptable Behaviours Defined** for examples).

### Respectful communication

Engaging in open, honest, and respectful communication with colleagues, whether in person, in writing, or through digital means.

### Collaboration and cooperation

Actively participating in teamwork, sharing ideas, and working together towards shared goals and objectives.

### Legitimate and reasonable management actions

Lawful and reasonable management actions, carried out in a respectful manner. Refer to the Managing For Performance Policy and the Recruitment Policy.

### Respectful disagreements

Low level workplace conflict, personality conflicts, differences of opinion, and disagreements are not categorised as unacceptable behaviours. Respectful disagreements around work related items are also encouraged as part of innovation and continuous improvement. However, unmanaged conflicts may escalate to the point where they become unacceptable behaviours.

### Professionalism

Demonstrating professionalism by maintaining a positive attitude, being punctual, dressing appropriately, and sticking to workplace policies and guidelines.

### Empathy and consideration

Showing empathy and consideration towards colleagues, understanding their perspectives, and being supportive of their needs and challenges.

### Constructive feedback

Providing and receiving constructive feedback in a respectful and constructive manner, aimed at promoting personal and professional growth.

### Integrity and honesty

Acting with honesty, integrity, and ethical conduct, and following established protocols and regulations.

### Inclusivity and diversity

Valuing and respecting diversity, treating everyone with fairness and equality, and promoting an inclusive and welcoming work environment.

## Conflict resolution

Handling conflicts or disagreements in a professional and respectful manner, seeking resolution through open dialogue and compromise.

## Work-life balance

Respecting the boundaries between work and personal life and supporting employees in maintaining a healthy work-life balance.

## Continuous learning

Actively seeking opportunities for professional growth and development and sharing knowledge and skills with colleagues.

## Offering assistance

Helping a colleague with a task or project when they are facing challenges or need support.

## Celebrating achievements equally

Recognising and celebrating the accomplishments of colleagues or teams, fostering a positive and encouraging work environment.

# 3. Unacceptable behaviours

The EPA is committed to fostering a respectful, inclusive and safe work environment for all workers and has zero tolerance towards **unacceptable behaviours**. Below is a summary of key unacceptable behaviours and **Appendix B – Unacceptable Behaviours Defined** provides additional details and examples to support awareness.

**Please note:** Some **unacceptable behaviours** identified as far from compliance with EPA values and all requisite ethical and behavioural standards may constitute misconduct and will be dealt with under the Managing Misconduct Policy.

## 3.1. Unacceptable behaviours defined

### Negatively applying power imbalances

Situational power imbalances can give rise to unacceptable behaviours (both acts and omissions) such as favouritism and nepotism; micromanagement; withholding resources (including access to people and systems); exploitation; failure to act; allocating excessive workload or making unreasonable demands; misusing confidential information; invasion of privacy: etc.

### Bullying

Bullying is repeated, unreasonable behaviour directed toward a worker or group of workers (or other than person(s) you deal with at work), that creates a risk to health and safety. Bullying can be physical, psychological, verbal or written, including via social media and online (see also the [EPA Social Media Policy](#)). Bullying can be directed downwards (from managers to workers), sideways (between workers) or upwards (from workers to managers).

**Please note:** One-off incidents of unreasonable behaviour may still be captured under one of the other unacceptable behaviours, such as exclusion, humiliation, intimidation, etc., depending on the situation.

### Discrimination

*Unlawful discrimination* means treating one person or group less favourably than another, or causing them disadvantage, in certain circumstances.

Discrimination may be unlawful if it is based on 'unlawful grounds'. Unlawful grounds include (but are not limited to):

- sex, pregnancy, family responsibilities or breastfeeding
- sexual orientation, gender identity, intersex status, marital or relationship status
- race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin
- age
- religious belief or activity
- political belief or activity
- career status or employment activity
- responsibility as a carer
- disability – impairment, injury, physical features, disease and illness
- trade union activity or membership
- being association with a person with one of the above attributes.

### Direct discrimination

Takes place when someone is treated less favourably than another person in the same or similar circumstances, because of an unlawful ground.

### Indirect discrimination

Takes place when everyone is treated on the same terms according to a rule, policy or directive but which has the effect of being less favourable to people covered by the unlawful grounds above, and which is not reasonable in all the circumstances.

## Exclusion

Exclusion in the workplace is an **unacceptable behaviour** that involves intentionally isolating or marginalising an individual or a group of individuals, thereby denying them access to opportunities, resources, or full participation in work-related activities. It is an act of deliberately leaving someone out or making them feel unwelcome, disregarded, or socially isolated within the work environment.

## Harassment

Engaging in a pattern of unwanted behaviours, comments, or actions that create a hostile, intimidating, or offensive work environment for an individual or a group, such as persistent bullying, discriminatory remarks, or unwanted advances. Harassment is any form of behaviour that:

- is unwelcome (not wanted) or uninvited (not asked for)
- a reasonable person would have anticipated that the behaviour would humiliate, offend or intimidate the person exposed to the conduct.

## Humiliation/defamation

Refers to actions or behaviours that intentionally degrade, belittle, or embarrass someone, causing them emotional distress and undermining their dignity and self-worth. It involves openly subjecting a person to ridicule, derogatory comments, or offensive gestures, with the aim of asserting power, control, or dominance over them. Humiliation can create a hostile work environment, impact a person's psychological wellbeing, and contribute to a toxic and unproductive workplace culture.

## Intimidation

A type of harassment that refers to actions or behaviours that are intended to create fear, coercion, or a hostile environment for an individual or a group of workers. It involves using threats, bullying, or aggressive

tactics to exert power or control over others, leading to psychological distress and undermining their well-being.

## Sexual harassment

Sexual harassment is any conduct:

- that is unwelcome (whether the person impacted has explicitly identified it as unwelcome or raised a concern about the conduct)
- of a sexual nature (a sexual advance, request for sexual favours or other conduct of a sexual nature)
- that a reasonable person (aware of all the circumstances) would anticipate could possibly make the person subjected to the conduct feel offended, humiliated, or intimidated.
- It can be physical, verbal or written, including through online and phone communication.

It should not be assumed that a person consents to another person's behaviour simply because they have not complained about it or has not verbalised that the behaviour was unwelcome. Power imbalances and concerns about victimisation or reprisal may prevent the person from expressly objecting to the behaviour. Behaviour should be explicitly accepted and reciprocated, and an individual should check that their advances are welcome. Checking should be verbal, and by observing non-verbal reactions and paying attention to the tone and content of any written communication such as texts.

### Consensual relationships in the workplace

**Consensual** sexual or romantic interactions between adults that are freely entered into and reciprocated are **not** considered sexual harassment. This includes sexual interaction, flirtation, attraction, or friendship that is invited, mutual, **consensual**, or reciprocated.

It is important to note that not all consensual sexual or romantic interactions between workers are appropriate, and disciplinary action may be taken if such actions negatively affect other workers or workplace responsibilities. Workers are required to disclose conflicts of interest, including personal relationships, as outlined in the *EPA Code of Ethics and Conduct*.

## Vexatious disclosures and/or reports

Vexatious disclosures and/or reports refer to the intentional and repeated submission of baseless or frivolous complaints, allegations, or reports by an individual with the purpose of causing disruption, harassment, or distress to others in the workplace. These disclosures or reports are made without genuine justification or valid evidence, and they are often intended to manipulate or exert control over the targeted individuals or the work environment. Vexatious disclosures and reports can create a hostile or unsafe atmosphere, undermining the trust, morale, and productivity of the workplace.

## Victimisation

Victimisation takes place when a person is subjected to, or threatened with, detriment for their involvement in a particular matter. It can include:

- any behaviour that exploits, excludes, isolates or treats someone so that they are a victim, a scapegoat, or are belittled
- bullying or intimidation by co-workers
- being denied a promotion or being moved to a position with lower responsibility
- dismissal or threatened dismissal from employment
- being refused further contract work.

In relation to sexual harassment, 'victimisation' has specific legal definitions under NSW and Commonwealth law. It includes victimising another person for making an allegation or report of sexual harassment, as well as bystanders or people perceived to have helped a person make a report of discrimination or sexual harassment. It is unlawful to act detrimentally or commit an act of victimisation against another person under section 50 of the *Anti-Discrimination Act 1977* and sections 47A & 94 of the

federal *Sex Discrimination Act 1984*, unless it involves lawful action in relation to an allegation that is proven to be false and not made in good faith. Taking action against an employee for making a report may also constitute **misconduct** under section 69 of the *GSE Act* (see the Managing Misconduct Policy for details).

## Vilification

Vilification means any behaviour that tries to encourage hatred or contempt.

## Other

This category refers to **unacceptable behaviours** that may not fit precisely into the above categories but are recognised as unacceptable and prohibited under NSW relevant legislation (NSW Crimes Act 1900). These behaviours could include but are not limited to things like physical assault, verbal abuse, or any action that infringes upon the rights, safety, or well-being of individuals.

# 4. Prevention – managing the risk of unacceptable behaviour

The EPA is committed to taking a proactive and holistic approach to prevent **unacceptable behaviours** in the workplace. The EPA also has legislated positive duties to take reasonable and proportionate steps to eliminate as far as possible **unacceptable behaviours** as they are a hazard – risking a worker’s physical and psychological health. Some of the legislated positive duties – under laws such as the NSW WHS Act, the NSW Anti-Discrimination Act, and the federal [Sex Discrimination Act](#) – relate to physically or psychologically unsafe workplace environments, sexual and sex-based harassment, sex discrimination, and victimisation (noting that in these cases the definition of victimisation is narrow and specific to each statute).

Managers or supervisors should take opportunities to consult with **workers** to identify and assess the potential for inappropriate behaviours to take place in the workplace.

The risk of inappropriate **at work** behaviours is controlled by implementing policies and procedures to prevent and manage occurrences, and by training staff to eliminate, avoid, or minimise the risk of harm occurring. Strategies can include:

- make sure all employees understand what constitutes inappropriate behaviours and bullying, and are aware of their obligations to engage in respectful behaviours at work
- encourage workers to promote a respectful and inclusive workplace environment through their own conduct and behaviour
- make sure this document and related internal procedures for addressing workplace issues and complaints or allegations is communicated to all employees
- encourage and support employees to resolve conflict themselves by providing appropriate information and training
- provide a clear and simple process for reporting bullying and inappropriate at work behaviours
- make sure support is offered and provided to the complainant and the person subject to the complaints
- make sure induction programs and other training address respectful behaviours, and reiterate what are unacceptable behaviour; review related training to ensure its appropriateness
- promote a positive workplace culture including communicating and discussing the EPA’s values and *EPA Code of Ethics and Conduct* with employees.

## Risk assessment

The EPA and **workers** have a duty to eliminate or minimise risks to health and safety so far as is reasonably practicable which includes **psychosocial hazards** and **unacceptable behaviours**. If it is not reasonably practicable to eliminate risks, they must be minimised so far as is reasonably practicable. Failure to maintain a safe workplace can lead to liability under common law or work health and safety legislation. Employers may also be liable for worker harassment under anti-discrimination laws if reasonable steps to prevent harassment are not taken.

Prevention involves identifying and assessing **psychosocial hazard** risk factors, consulting with staff, health and safety representatives, and unions.

## Transparency

The EPA is committed to transparency on the number of incidences of **unacceptable behaviours** in the organisation. This builds confidence in our reporting processes.

This does not mean full disclosure of all the details or disclosure of any reports which are found to be intentionally falsified or vexatious, but rather considered sharing where possible of relevant de identified information on a regular basis to encourage organisational learning and prevent similar incidents from happening in the future.

In doing so, the EPA will make sure confidentiality and privacy is maintained, and that no personal information or information which otherwise identifies victims/survivors or perpetrators can be ascertained from that data or any shared learning (or other) material.

## Knowledge and education

The EPA will make sure all **people leaders** are trained to appropriately respond to disclosures of **unacceptable behaviours**, ensure all **workers** are trained to appropriately identify **unacceptable behaviours**, call out behaviour as active bystanders, and are aware of the reporting and response procedures.

# 5. Reporting and responding

## 5.1. Reporting

The EPA strongly encourages individuals who have experienced or have witnessed **unacceptable behaviours** to report the behaviour.

Making a report about **unacceptable behaviours** does not necessarily automatically trigger a formal investigation, although that may be appropriate in some cases. Support, advice and early intervention may prevent further or more serious instances of **unacceptable behaviours** from taking place.

Workers are encouraged to make timely reports, while being reassured they will not be treated unfairly because of any delay in reporting **unacceptable behaviours**.

## 5.2. Responding

The EPA is committed to taking a trauma-informed and person-centred approach when responding to reports of **unacceptable behaviour**. This includes:

- ensuring the safety, privacy and wellbeing of the person impacted are prioritised
- listening to the person impacted in a compassionate, non-judgmental and sensitive manner
- making sure all processes are designed to minimise harm

- making sure reports are handled fairly, impartiality and reasonably in accordance with procedural fairness principles
- making sure all participants in the process have clear information about the process and how procedural fairness will be provided
- making sure confidentiality is understood and maintained
- making sure responses are provided in a timely manner.

If a report indicates the alleged **unacceptable behaviour** may constitute misconduct (or if an allegation of misconduct has been made), the EPA must deal with the allegation according to any applicable legislation – as detailed in the the managing misconduct policy. This includes making an initial assessment of whether the allegation is vexatious or trivial, whether the conduct does not amount to misconduct, or whether there is likely to be difficulty in establishing the facts of the matter.

The EPA will always seek input from the person impacted on how they would like the matter resolved and take this into account in deciding how to proceed with the complaint. Where possible, the EPA will explain its reasons if it does not handle or resolve the complaint in the way requested by the person impacted.

In some cases, the person impacted may not want any action taken and is reporting the behaviour so that the organisation knows that it has happened. The EPA has an obligation to deal with any wrongdoing it becomes aware of. In some cases, action may be warranted, even where the person impacted states that they do not want any further action to be taken. This may be the case in situations where the behaviour constitutes a work health and safety risk or a criminal offence or requires disciplinary action to be taken or where there have been repeated complaints regarding an individual's behaviour.

The EPA is also obligated to take measures to eliminate detrimental actions in relation to **unacceptable behaviour** complaints (see 5.6 below).

### 5.3. A range of pathways towards resolution

Incidents of **unacceptable behaviours** can be reported informally or formally, and anonymously and confidentially. Reporting pathways are outlined in more detail in the **Appendix C - Procedure guide – Managing a complaint, allegation or issue**.

**Pathway 1 – Local resolution (informal):** Resolve the issue locally by speaking directly with the person(s) involved.

**Pathway 2 – Supported resolution (semi-formal):** This will involve extra support from your EPA people partner to resolve the conflict. It will involve an initial assessment of the issue and may involve a facilitated conversation with all parties. Resolution may include mediation; confidential counselling; training or coaching; or ongoing monitoring.

**Pathway 3 – Internal resolution (formal):** Is the approach taken with issues raised that are of a serious nature. The managing misconduct policy may apply instead of this policy.

**Pathway 4 – External resolution (formal):** a formal report about unacceptable behaviours can be made to the following agencies. A worker can make an external report regardless of whether they have raised a complaint internally.

- Anti-Discrimination NSW
- Australian Human Rights Commission
- Safe Work NSW
- NSW Police Force
- Fair Work Ombudsman
- NSW Independent Commission Against Corruption (if corrupt conduct is suspected or may be involved).

## Support and disclosure

People who have experienced or witnessed unacceptable behaviour can in any of the pathways:

- speak to a manager, supervisor, human resources, health and safety officer or union representative to raise concerns, receive support and discuss options that could help resolve the issue
- access the [Employee Assistance Program](#)
- seek advice from an external body (see **Pathway 4 – External resolution** above)
- Individuals may wish to raise the issue directly with the other person(s) involved if they feel safe and comfortable to do so. However, there is no expectation or requirement for this.

Also, at any time during these procedures the worker can choose to be accompanied and supported by a **support person** of their choosing. The support person must keep all matters relating to the investigation confidential. They must not be directly involved in the matter or a witness to it.

## 5.4. Responding to and reporting **unacceptable behaviour** as a bystander

The EPA strongly encourages and supports bystanders to call out and report **unacceptable behaviours** where it is safe for them to do so. Bystanders who witness **unacceptable behaviours** are encouraged to:

- provide support to the person who is being subjected to **unacceptable behaviours**
- formally or informally challenge concerning behaviour (if it is safe and they feel confident enough to do so)
- report **unacceptable behaviours**
- supporting the colleague by providing them with information about this policy and avenues for raising their concerns
- reporting the conduct to a **supervisor or senior manager** (see the Managing Misconduct Policy for these definitions), the [Director People, Culture, & Capability](#), or the [Manager People Partners](#).

Bystanders who need support are encouraged to contact the Director People, Culture & Capability, or the Manager People Partners.

## 5.5. How reports will be handled

The EPA will treat all reports of **unacceptable behaviours** seriously. As each complaint will differ, the EPA will determine the most appropriate method of dealing with the complaint. This may vary depending on the nature of the specific complaint and other relevant factors.

Reports of **unacceptable behaviours** will be handled according to the principles and rules stipulated in **Appendix B** of the [EPA Managing Misconduct Policy and Procedure Guide](#) (2023):

- on-site resolution
- natural justice (procedural fairness)
- standard of proof
- confidentiality (as well as the rules regarding privacy and personal information).

## 5.6. Protection against detrimental actions

Taking or threatening detrimental action against a worker who has, or might, make a report, allegation, or complaint of **unacceptable behaviours**, is a violation of this policy. Similarly, making or threatening detrimental action against bystanders or people perceived to have helped or supported a person make a report is a violation of this policy. The EPA has zero tolerance of detrimental actions and commits to:

- taking no adverse action against a person because they have made a report, allegation or complaint and
- protecting workers, bystanders, helpers and supporters from detrimental actions.

Penalties for detrimental action vary depending on the circumstances and the **unacceptable behaviours** involved. Under s.69 of the *GSE Act* detrimental action is a category of misconduct, attracting a range of possible administrative penalties (including dismissal).

## 6. Additional materials

### 6.1. Relevant documentation

The following are relevant policies and guidance documentation to support compliance with this policy:

- [\*The Ethical Framework for NSW Government Sector Employees\*](#)
- [\*EPA Code of Ethics and Conduct\*](#)
- [\*EPA Managing Misconduct Policy and Procedure Guide\*](#)
- [\*EPA Unacceptable Behaviours Out of Work Hours Guidelines\*](#)
- [\*EPA Human Resource Delegations\*](#)

### 6.2. Relevant legislation

Development and compliance of this policy is done through the following relevant legislation:

- [\*Government Sector Employment Act 2013\*](#)
- [\*Government Sector Employment Rules 2014\*](#)
- [\*Anti-Discrimination and Human Rights Legislation Amendment \(Respect at Work\) Act 2022\*](#) (Cth)
- [\*Sex Discrimination Act 1984\*](#) (Cth)
- [\*Anti-Discrimination Act 1977\*](#)
- [\*Work Health and Safety Act 2011\*](#)
- [\*State Records Act 1998\*](#)
- [\*Government Information \(Public Access\) Act 2009\*](#)
- [\*Privacy and Personal Information Protection Act 1998\*](#)
- [\*Public Interest Disclosure Act 2022\*](#)
- [\*Australian Human Rights Commission Act 1986\*](#) (Cth)
- [\*Disability Discrimination Act 1992\*](#) (Cth)
- [\*Racial Discrimination Act 1975\*](#) (Cth)
- [\*Age Discrimination Act 2004\*](#) (Cth)
- [\*Fair Work Act 2009\*](#) (Cth)
- [\*Workplace Gender Equality Act 2012\*](#) (Cth)

## 6.3. Monitoring and evaluation

The EPA is committed to effective monitoring, evaluation and organisational learning processes that will foster a respectful and inclusive work environment. This includes:

- regularly collecting and assessing reports and relevant data for trends, patterns and lessons to drive continuous improvement
- regularly consulting with workers and unions to share knowledge and understand issues from a worker perspective
- regularly reviewing and updating relevant prevention plans to drive continuous improvement
- sharing information about trends, patterns and lessons with staff, leadership, unions management boards or committees and relevant stakeholders
- making sure staff have confidence that unacceptable behaviours are being eliminated in their workplace.

## 6.4. Roles and responsibilities

In relation to both this policy and the *EPA Code of Ethics and Conduct* the responsibilities of each role are as set out in this table.

Role	Responsibility
All workers	<p>All workers have a responsibility to:</p> <ul style="list-style-type: none"> <li>• comply with this policy</li> <li>• demonstrate conduct and behaviour consistent with this policy and the <i>EPA Code of Ethics and Conduct (2022)</i></li> <li>• seek help when unsure about how to implement this policy (from their manager, senior leader, or People Partner)</li> <li>• be encouraged to escalate and/or report suspected breaches of the policy in accordance with the reporting mechanisms.</li> <li>• make timely reports, while being reassured they will not be treated unfairly because of any delay in reporting unacceptable behaviours.</li> <li>• report any behaviours, actions, or omissions that are inappropriate or do not accord with our values and policies (including this policy)</li> <li>• refuse to join in with any behaviours, actions, or omissions that are inappropriate or do not accord with our values and policies (including this policy)</li> <li>• immediately cease and apologise for behaviours, actions, or omissions, if someone indicates they feel uncomfortable with them</li> <li>• support other EPA workers experiencing any type of behaviours, actions, or omissions that are inappropriate or do not accord with our values and policies (including this policy), and encourage and assist them to raise their concerns through the appropriate processes and procedures relating to this policy, and the <i>EPA Code of Ethics and Conduct (2022)</i>.</li> </ul>
All people leaders	<p>As well as their responsibilities as workers, those with management and leadership responsibilities (people leaders) must also demonstrate, promote and support behaviours and actions that are appropriate and accord with our values and policies. This includes to:</p> <ul style="list-style-type: none"> <li>• promote a work culture where <b><i>inappropriate behaviours</i></b> are unacceptable</li> <li>• communicate and promote this policy to those they work with</li> <li>• challenge <b><i>inappropriate behaviour</i></b></li> <li>• encourage an environment where workers feel safe to escalate and report <b><i>inappropriate behaviours</i></b></li> <li>• prioritise the care and support of those impacted when responding to issues raised with them or observed</li> <li>• treat all reports of <b><i>inappropriate behaviours</i></b> seriously and confidentially and take prompt action to address them (taking into account the wishes of the person subjected to the alleged unacceptable behaviour).</li> <li>• recognise that power imbalances are a significant risk factor for <b><i>unacceptable behaviours</i></b>.</li> <li>• accept and recognise differences among workers as a valuable characteristic</li> <li>• manage worker performance and conduct</li> <li>• correctly interpret and consistently apply awards and worker entitlements</li> <li>• allocate work to workers fairly</li> <li>• provide equitable training and development opportunities to workers</li> <li>• implement good and equitable consultation and communication practices when effecting change</li> <li>• address worker concerns according to the processes set out in this policy.</li> </ul>

Role	Responsibility
EPA Chief Executive Officer (CEO)	The CEO is the owner and approver of this policy and procedure guide
CEO & Executive members	<ul style="list-style-type: none"> <li>• Help raise EPA workers' awareness of this policy, and strengthen our people's skills in implementing it</li> <li>• The CEO and the Executive are responsible for making sure mechanisms for responding to potentially unethical circumstances are appropriate and effective</li> <li>• <b>Manage misconduct including making decisions to take action where misconduct occurs</b></li> </ul>
Director People, Culture & Capability	<ul style="list-style-type: none"> <li>• Custodianship of this policy and procedure guide</li> <li>• Monitors, reviews, and reports on how this policy is applied</li> <li>• Review and oversight of the currency of the EPA suite of people-related policies and regular reporting of status</li> <li>• Custodianship of confidential personnel files and related materials</li> </ul>
People, Culture & Capability Branch	<ul style="list-style-type: none"> <li>• Implement and support the EPA's Human Resources policies by providing advice and assistance regarding this policy to all workers, by building awareness, and by skills development</li> <li>• Collate and report statistics / other results of the EPA's Human Resources policies</li> <li>• Monitor the effectiveness of the EPA's Human Resources policies and propose suitable refinements where appropriate</li> <li>• Manage confidential personnel files and related materials</li> <li>• Under certain circumstances, the People Partners Team may be appointed by the Director Capability and Talent to manage a case under this policy (i.e. undertake assigned inquiry tasks). This may occur at any stage of case management.</li> <li>• In cases where actions may be needed, they will be implemented in accordance with the EPA Instrument of Delegations for Human Resources, by the: Manager People Partners; Director People, Culture, and Capability; Executive Director Legal, Governance, and People; a Senior Leadership Team member; or the EPA CEO (as appropriate)</li> </ul>
Director Risk and Governance	Review and oversee the EPA's suite of risk and governance policies to ensure currency and report on their status. Custodianship of confidential probity materials
Risk and Governance Branch	<ul style="list-style-type: none"> <li>• Maintain the listing and currency of the EPA's Risk and Governance policies</li> <li>• Implement and support the EPA's Risk and Governance policies by providing advice, building awareness, and developing skills</li> <li>• Collate and report statistics / other results of the EPA's Governance policies</li> <li>• Monitor the effectiveness of the EPA's Risk and Governance policies, lead their review when appropriate, and propose suitable refinements</li> <li>• <b>Manage confidential probity materials</b></li> </ul>
Third-party provider	Conduct contracted works/services in accordance with this policy. Create, disseminate, use, retain and destroy relevant personal information in accordance with this policy and New South Wales and Commonwealth law

# Appendix A Acceptable behaviours examples

Acceptable behaviour	Definition	Example
Respectful communication	Engaging in open, honest, and respectful communication with colleagues and superiors, whether in person, in writing, or through digital means.	<p>Listening actively and attentively when others are speaking.</p> <p>Using polite and professional language in all communications.</p> <p>Avoiding derogatory or offensive language and jokes.</p> <p>Respecting others' opinions and perspectives, even if they differ from your own.</p> <p>Giving others an opportunity to express their thoughts and ideas.</p>
Collaboration and cooperation	Actively participating in teamwork, sharing ideas, and working together towards shared goals and objectives.	<p>Sharing information, resources, and expertise with colleagues.</p> <p>Actively participating in team projects, contributing to collective goals and seeking appropriate solutions.</p> <p>Seeking input and feedback from others before making decisions.</p> <p>Respecting and considering the ideas and contributions of all team members.</p> <p>Resolving conflicts or disagreements through open and constructive dialogue.</p>
Legitimate and reasonable management actions	Lawful and reasonable management actions, carried out in a respectful manner. Refer to the Managing For Performance policy and the Recruitment Policy (and also the Public Service Commission's <a href="#">Recruiting people with disability</a> guidance).	<p>Allocating work and setting priorities</p> <p>Providing feedback</p> <p>Initiating performance management processes and initiating disciplinary processes</p> <p>Making justifiable decisions related to recruitment and development, and implementing workplace policies and procedures.</p>
Respectful disagreements	<p>Low level workplace conflict, personality conflicts, differences of opinion, and disagreements are not categorised as <i>unacceptable behaviours</i>. Respectful disagreements around work related items are also encouraged as part of innovation and continuous improvement.</p> <p>However, unmanaged conflicts may escalate to the point where they become <i>unacceptable behaviours</i>.</p>	If workplace conflict is affecting individuals, they should raise their concerns with their supervisor, senior manager, Director People, Culture and Capability, or Manager People Partners.
Professionalism	Demonstrating professionalism by maintaining a professional attitude, being punctual, dressing appropriately, and sticking to workplace policies and guidelines.	<p>Being punctual and reliable in meeting work obligations and deadlines.</p> <p>Dressing appropriately according to the company's dress code policy.</p> <p>Maintaining a professional attitude and demonstrating a strong work ethic.</p> <p>Respecting confidentiality and handling sensitive information appropriately.</p> <p>Using work-related resources, including technology and equipment, responsibly.</p>

Acceptable behaviour	Definition	Example
Empathy and consideration	Showing empathy and consideration towards colleagues, understanding their perspectives, and being supportive of their needs and challenges.	Showing empathy towards colleagues who may be facing personal or professional challenges. Considering the impact of your actions and decisions on others. Being mindful of colleagues' workload and offering assistance if needed. Being understanding and supportive when someone needs time off or flexibility due to personal reasons.
Constructive feedback	Providing and receiving constructive feedback in a respectful and constructive manner, aimed at promoting personal and professional growth.	Providing feedback in a constructive and respectful manner, focusing on specific behaviours or actions. Offering suggestions for improvement and growth rather than criticising or blaming. Being open to receiving feedback from others and using it to enhance performance. Separating the person from the behaviour when delivering feedback. Expressing appreciation for strengths and accomplishments alongside areas for improvement.
Integrity and honesty	Acting with honesty, integrity, and ethical conduct, and following established protocols and regulations.	Acting with honesty and transparency in all interactions and transactions. Taking responsibility for mistakes and rectifying them promptly. Avoiding conflicts of interest and acting in the best interest of the organisation. Adhering to ethical standards and company policies and procedures. Reporting any unethical or inappropriate behaviour witnessed in the workplace.
Inclusivity and diversity	Valuing and respecting diversity, treating everyone with fairness and equality, and promoting an inclusive and welcoming work environment.	Valuing and respecting individuals from diverse backgrounds, cultures, and identities. Creating an inclusive and welcoming environment where everyone feels valued and respected. Promoting equal opportunities and fair treatment for all employees. Avoiding discriminatory actions or biases in hiring, promotion, and decision-making processes. Actively seeking diverse perspectives and including them in discussions and decision-making.
Conflict resolution	Handling conflicts or disagreements in a professional and respectful manner, seeking resolution through open dialogue and compromise.	Addressing conflicts promptly and directly, seeking resolution through open and respectful dialogue. Actively listening to all parties involved and considering their perspectives. Finding common ground and exploring mutually agreeable solutions. Seeking mediation or involving appropriate parties when necessary. Striving for win-win outcomes that maintain positive relationships.

Acceptable behaviour	Definition	Example
Work-life balance	Respecting the boundaries between work and personal life and supporting employees in maintaining a healthy work-life balance.	<p>Encouraging and supporting employees in achieving a healthy work-life balance.</p> <p>Respecting and accommodating personal commitments and responsibilities.</p> <p>Encouraging the use of Leave and discouraging excessive work hours.</p> <p>Promoting wellbeing initiatives and providing resources for stress management.</p> <p>Creating a culture that values work-life balance and avoids burnout.</p>
Continuous learning	Actively seeking opportunities for professional growth and development and sharing knowledge and skills with colleagues.	<p>Seeking opportunities for professional development, such as attending workshops or training sessions.</p> <p>Staying updated on industry trends and best practices.</p> <p>Sharing knowledge and skills with colleagues to foster a learning culture.</p> <p>Actively seeking feedback and being open to learning from mistakes.</p> <p>Taking on new challenges and responsibilities to expand knowledge and skills.</p>
Offering assistance	Helping a colleague with a task or project when they are facing challenges or need support.	<p>Volunteering to help colleagues with their workload or projects where appropriate.</p> <p>Sharing expertise or providing guidance to others who may need support.</p> <p>Actively seeking ways to support the team and contribute to its success.</p> <p>Being approachable and available for questions or assistance.</p>
Celebrating achievements equally	Recognising and celebrating the accomplishments of colleagues or teams, fostering a positive and encouraging work environment.	<p>Formal and informal recognition</p> <p>Public and private 'thank you'</p> <p>Nominations for recognition</p> <p>Coordination or morning teas/ celebration events.</p>

## Appendix B Unacceptable behaviours examples

Unacceptable behaviour	Examples
Negatively applying power imbalance	<p><b>Favouritism and nepotism:</b> Demonstrating preferential treatment or providing advantages to specific individuals based on personal relationships or biases rather than merit.</p> <p><b>Micromanagement:</b> Exerting excessive control, closely monitoring, and interfering with employees' work in a way that may not be necessary and may not align with appropriate responsibilities.</p> <p><b>Withholding resources:</b> Intentionally depriving employees of necessary tools, information, or opportunities required to deliver required work and outcomes.</p> <p><b>Exploitation:</b> Taking advantage of subordinate employees for personal gain, such as using their work or ideas without proper credit or compensation.</p> <p>Failure to intervene, escalate, or manage any other <i>unacceptable behaviour</i>.</p> <p><b>Excessive workload or unreasonable demands:</b> Consistently assigning an unmanageable workload or setting unrealistic expectations without considering the wellbeing and capacity of workers.</p> <p><b>Misuse of confidential information:</b> Exploiting access to sensitive or confidential information for personal gain or manipulating others, breaching trust and confidentiality.</p> <p><b>Invasion of privacy:</b> Invading the privacy of others, such as accessing personal files or monitoring personal communications, without proper authorisation or legitimate reason.</p>
Bullying	<p>Abusive, insulting, or offensive language or comments</p> <p>Unjustified criticism or complaints</p> <p>Withholding information that is vital for effective work performance</p> <p>Intentionally setting unreasonable timelines or constantly changing deadlines</p> <p>Intentionally setting tasks that are unreasonably below, or beyond, a person's skill level</p> <p>Speaking to and treating co-workers in a hostile, aggressive, condescending, mocking, or disrespectful manner.</p> <p>Treating peers as subordinates, such as by giving them orders or off-loading tasks unreasonably.</p> <p>Wilfully creating unnecessary urgency; being inconsiderate of co-workers' workload; demanding priority assistance.</p> <p>Denying access to information, supervision, consultation, or resources to the detriment of the worker</p> <p>Spreading misinformation or malicious rumours</p> <p>Changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers</p> <p>Deliberately excluding a particular worker or workers from work activities.</p>

Unacceptable behaviour	Examples
Direct discrimination	<p>A worker misses out on an internal promotion because they are considered too old for the job.</p> <p>Promotion of younger workers over older workers, assuming that older workers may not be as tech-savvy or adaptable to new environmental regulations and policies.</p> <p>Failing to provide reasonable adjustments for workers with health (physical/mental) conditions or with a disability, such as work environment adjustments, flexible work arrangements or extra support, which negatively impacts their career progression.</p> <p>Denying promotion opportunities to Aboriginal workers in field-based roles, despite their qualifications and experience, based on stereotypes and assumptions about their abilities.</p> <p>Worker from a non-English speaking (culturally and linguistically diverse) background is repeatedly passed over for promotion despite having more experience and better qualifications than their colleagues who are native English speakers.</p>
Indirect discrimination	<p>It could be indirect sex discrimination if a policy says that managers must work full-time, as this might disadvantage women because they are more likely to work part-time because of family responsibilities.</p> <p>Dress codes that require specific attire, which may disproportionately impact individuals from certain cultural or religious backgrounds who have specific dress requirements or preferences.</p> <p>Flexible work arrangements that are only available to workers with certain caregiving responsibilities, which may disproportionately affect workers without those responsibilities.</p> <p>Language requirements for job positions that are not necessary to performance the inherent requirements for the role, potentially excluding individuals from non-English speaking backgrounds.</p> <p>Height or weight requirements for certain roles that are not directly related to the inherent requirements for the role, which may disproportionately disadvantage certain genders or individuals with specific physical characteristics.</p> <p>Work schedules that do not accommodate religious or cultural observances, making it difficult for workers to practice their faith or participate in important cultural events.</p> <p>Age restrictions on employment or promotions that are not justified by the nature of the job, potentially disadvantaging older workers.</p>
Exclusion	<p><b>Withholding information:</b> Maliciously not sharing important work-related information, updates, or decisions with certain individuals or a specific group.</p> <p><b>Ignoring or excluding from discussions:</b> Deliberately excluding someone from discussions, meetings, or decision-making processes where their input or participation is relevant or necessary.</p> <p><b>Social isolation:</b> Isolating an individual by purposefully excluding them from social gatherings, conversations, or informal interactions with colleagues.</p> <p><b>Exclusion from projects or opportunities:</b> Denying an individual or a group access to significant projects, assignments, or career advancement opportunities without valid reasons.</p> <p><b>Exclusion from professional networks:</b> Intentionally preventing or discouraging someone from joining or participating in professional networks, associations, or mentorship programs, limiting their professional growth and connections.</p>

Unacceptable behaviour	Examples
Harassment	<p>Racial slurs, derogatory terms or offensive language based on their race or ethnicity including:</p> <ul style="list-style-type: none"> <li>• <b>microaggressions:</b> Subtle but persistent acts of discrimination, such as consistently mispronouncing or intentionally ignoring someone's name or making derogatory comments based on cultural practices or customs.</li> <li>• <b>religious harassment:</b> Workers are subjected to offensive comments, stereotypes, or exclusion based on their religious beliefs, practices, or attire.</li> <li>• <b>Harassment based on gender identity:</b> Transgender or gender non-conforming individuals face persistent misgendering, discriminatory comments</li> </ul>
Humiliation/defamation	<p>Mocking or ridiculing a worker in front of colleagues or superiors for their ideas, suggestions, or mistakes.</p> <p>Deliberately assigning demeaning or menial tasks to certain individuals to belittle or demean them.</p> <p>Spreading rumours or gossip about a worker to tarnish their reputation or embarrass them.</p> <p>Publicly berating or yelling at a worker, using derogatory language or offensive comments.</p> <p>Displaying offensive or degrading images or materials related to a worker, such as on notice boards or in shared spaces.</p> <p>Excluding or isolating a worker from work-related activities or conversations, intentionally making them feel left out or insignificant.</p> <p>Engaging in public shaming or humiliation through online platforms or social media channels, targeting a worker's professional standing or personal life.</p> <p>Belittling or mocking a worker's physical appearance, disabilities, or personal traits.</p> <p>Using excessive monitoring or surveillance measures to publicly expose a worker's mistakes or shortcomings.</p>
Intimidation	<p>Physical threats or acts of aggression towards a worker, such as raising a fist, invading personal space, or engaging in violent behaviour.</p> <p>Verbal intimidation through aggressive or hostile language, including shouting, yelling, or using derogatory and offensive remarks.</p> <p>Making veiled or explicit threats of job loss, demotion, or other adverse employment consequences to control or manipulate a worker.</p> <p>Spreading fear or creating a hostile work environment through persistent bullying, harassment, or aggressive behaviour.</p> <p>Using power or authority to intimidate or exert control, such as intimidating workers into accepting unfair demands or engaging in unethical practices.</p> <p>Excessive or unjustified criticism or micromanagement, with the intention to create a sense of fear, inadequacy, or incompetence in a worker.</p> <p>Retaliation or threats of retaliation against a worker who has raised concerns, complaints, or grievances about workplace conditions or treatment.</p> <p>Sabotaging someone's work, intentionally hindering their progress, or manipulating circumstances to undermine their performance or success.</p> <p>Using intimidation tactics to prevent/discourage workers from exercising their workplace rights, such as joining a union or participating in collective action.</p> <p>Intimidating or harassing behaviour based on a worker's protected characteristics, such as their race, gender, religion, or disability.</p>

Unacceptable behaviour	Examples
Sexual harassment	<p>Unwelcome or inappropriate touching, hugging, cornering or kissing.</p> <p>Inappropriate staring or leering that makes the other person feel intimidated.</p> <p>Sexually explicit or indecent physical contact.</p> <p>Actual or attempted sexual assault.</p> <p>Being followed or watched or having someone loitering nearby.</p> <p>Sexual gestures, indecent exposure or inappropriate display of the body.</p> <p>Displaying sexually explicit images or objects around the office.</p> <p>Intrusive or sexually suggestive questions, comments or jokes.</p> <p>Comments or questions about a person's sexual activities or body.</p> <p>Unwanted or repeated invitations to go out on dates, start a relationship or propositions for sex.</p> <p>Emailing pornography or rude jokes.</p> <p>Sending sexual text messages, including photos, videos or memes.</p> <p>Communicating content of a sexual nature through social media.</p> <p>Threatening to share or sharing intimate images/video of someone without consent.</p> <p>Ongoing unwelcome contact (e.g. In person, by phone, via social media) following the end of a consensual relationship.</p>
Vexatious reports	<p>Repeatedly filing complaints against colleagues without any substantial evidence or valid grounds, solely to create a sense of discomfort or trouble for them.</p> <p>Making false allegations against a supervisor or manager to damage their reputation or undermine their authority.</p> <p>Consistently reporting minor or trivial issues as serious misconduct or policy violations, even when it has previously been determined that a formal investigation or action is not required.</p> <p>Persistently submitting complaints about workplace policies or practices without providing any constructive feedback or viable alternatives.</p> <p>Repeatedly reporting the same issue to multiple authorities or departments, despite it being appropriately addressed or resolved previously.</p> <p>Deliberately making exaggerated or fabricated claims about workplace safety violations or breaches, with the intention of causing unnecessary panic or disruption.</p> <p>Submitting multiple anonymous complaints or reports that lack credibility or specific details, making it difficult for the organisation to properly investigate or address the concerns.</p> <p>Using the reporting mechanism as a means of personal vendetta or retaliation against a worker, supervisor, or the organisation itself.</p> <p>Making repetitive and baseless claims of discrimination or harassment without providing enough evidence or following the established complaint resolution process.</p> <p>Continuously reporting perceived conflicts of interest or ethical breaches without any genuine basis or understanding of the relevant policies or regulations.</p>

Unacceptable behaviour	Examples
Victimisation	<p>Unfair treatment or negative consequences directed towards a worker who has made a complaint or lodged a grievance about workplace issues, such as discrimination, harassment, or safety concerns.</p> <p>Excluding or isolating a worker from work-related activities, meetings, or decision-making processes as a form of punishment for speaking up or asserting their rights.</p> <p>Denying promotions, training opportunities, or desirable work assignments to a worker based on their previous complaints or grievances.</p> <p>Unwarranted and excessive monitoring or surveillance of a worker's activities to intimidate or retaliate against them.</p> <p>Spreading rumours or making false accusations about a worker who has raised concerns, with the intention of damaging their reputation or credibility.</p> <p>Experiencing heightened scrutiny, disciplinary actions, or performance evaluations that are unjustified or disproportionately harsh compared to other workers.</p> <p>Withholding necessary resources, support, or information needed to perform job duties effectively to punish or victimise a worker.</p> <p>Encouraging or facilitating a hostile work environment where colleagues or supervisors engage in bullying, ostracism, or mistreatment towards a worker who has spoken out against wrongdoing.</p> <p>Unfairly blaming a worker for mistakes or errors that were beyond their control, solely because of their involvement in protected activities like whistleblowing or reporting misconduct.</p> <p>Creating a culture of fear and silence by making it known that workers who raise concerns or assert their rights will face negative repercussions.</p>
Other	<p><b>Physical Assault:</b> Any intentional physical act that causes harm, injury, or unwanted physical contact, such as hitting, pushing, slapping, or punching a worker.</p> <p><b>Coercion:</b> Using undue pressure or influence to force someone into doing something against their will, such as compelling them to participate in unethical or illegal activities or making threats to their job security.</p>

# Appendix C Procedure guide – managing a complaint, allegation, or issue

## C.1. Issues, complaints or allegations

As part of maintaining a respectful workplace, our **workers** have the right to have issues, complaints, or allegations dealt with fairly and promptly. We all have an obligation to participate in investigation and resolution processes in a respectful, honest, and ethical manner; supporting procedural fairness, natural justice and standards of proof. We value and respect our workers, and a fair and thorough process must always be followed. This means:

- the EPA will conduct reasonable inquiries or investigations prior to making adverse findings and/or recommendations
- person(s) conducting the investigation and the final decision maker must have no conflicts of interest in the matter and must act without bias.

Workers, supervisors and managers can seek advice from the Director People, Culture and Capability or the Manager People Partners at any time to determine how they may like to proceed, and the procedure involved.

## C.2. Pathway 1 – Local (informal) resolution for employees

### C.2.1. Clarify the issue

If you feel you've not been treated with respect, work through the points below to help consider the issue. Initial clarification is very important.

- consider exactly what happened and how it's affecting you. Write a list of your concerns and describe why and how you believe you've not been treated appropriately
- think about what you need in the situation, and what you can reasonably expect from the other person, e.g. what reasonable expectations did you have of the other person that they didn't meet? What reasonable expectations did they have that you didn't meet?
- think about the role you played in the situation. It's possible you may have unwittingly (or knowingly) contributed to a problem. This may include not taking any action at the early stages, e.g. not letting the person know you considered their comments/actions hurtful or offensive
- look at the matter from the other person's perspective, this may help to test any assumptions that may have been made
- it may help to talk to someone impartial e.g. someone who is not a work colleague.

**Note:** If you do this, remember anyone involved in the process has a right to confidentiality, including the person who you think didn't treat you properly. You may want to consider the services offered by the Employee Assistance Program (EAP).

### C.2.2. After clarification

After clarifying the issue, you may decide to:

- do nothing further about the issue at this time
- or
- address the issue another way such as an open discussion – this is often easiest if it happens early, before the relationship becomes tense.

Even if the situation has become difficult, look for ways to raise the issue with the other person. For options on addressing an issue, see **Appendix D: Options for addressing an issue.**

### C.2.3. Seek assistance from your supervisor or manager

Consider involving your supervisor or manager if you haven't been able to resolve the issue with the other person directly. Alternatively, consider other options, see **Appendix D: Options for addressing an issue**.

You can withdraw from taking steps to consider the issue at any time.

### C.2.4. Finalise the local (informal) process

**An agreement is reached:** If an agreement is reached before or after seeking assistance from your supervisor or manager, there is no need for further action, the matter is considered closed and there is no need to create a formal record.

As part of the process, your supervisor/manager may encourage the people involved to do training or other activities to restore workplace relationships.

**An agreement is not reached:** If the matter has not been resolved after seeking assistance from your supervisor or manager, either you or the other party can request the matter be dealt with formally.

**Note:** If the issues of concern relate to matters covered by legislation such as the *Work Health and Safety Act 2011* or the *Public Interest Disclosures Act 1994*, your supervisor/the senior manager may be required to initiate further action (see the [EPA Public Interest Disclosures Policy and Procedures](#) for further detail).

## C.3. Pathway 2 – Supported resolution (semi-formal)

### *How do I lodge a workplace issue?*

Please contact the Manager People Partners (people.talent@epa.nsw.gov.au) with:

- full details of the workplace issue including specific events and behaviours
- details of any witnesses
- any supporting documentation
- what action or outcome you are seeking to resolve the issue.

### *What happens after I contact the Manager People Partners?*

- An email acknowledging receipt of the issue will be sent to you.
- A member of the People Partners Team will make contact with you within two (2) business days to clarify details of the issue:
  - the People Partner will take on the role of the case manager or may engage the individual's supervisor (if appropriate) or an independent external party
  - confidentiality is an essential requirement of this engagement process.
- There will be an initial assessment of the issue to determine the next course of action which may include:
  - a review of the work environment
  - an internal investigation/ fact finding process
  - an external investigation/ fact finding process
  - a facilitated conversation with all affected parties.

### *Resolution outcomes may include*

- mediation by a neutral third party
- confidential counselling through the agency's Employee Assistance Program (EAP)
- training and/or development which may include coaching, people management technique training or doing a refresher in the [EPA Code of Ethics and Conduct](#) (2022)
- ongoing monitoring of the work environment to ensure compliance with any recommendations.

### *Closure of a matter*

The matter is closed when either the:

- complainant considers the matter closed or is withdrawing their complaint or allegation or
- the case manager assisting to resolve the matter considers the matter is closed.

It's important the case manager:

- is clear what outcome(s) has been reached
- communicates the outcome(s) with the complainant and respondent
- puts any agreement in writing, to help those involved be clear about what they agreed and to help check progress towards achieving what has been agreed
- manages people's emotional reaction to the resolution:
  - how angry or upset is the person?
  - how satisfied are they with the outcomes?
  - how will they recover from the difficulties of being part of the discussion that has happened?
- notifies complainant and respondent of any decisions or outcomes in writing and finalises any required records (all documentation must be kept secure)
- supports the outcomes and monitors the situation, and actively assists the people involved to implement any reasonable agreements reached.

## **C.4. Pathway 3 – Formal resolution**

Refer to the [EPA Managing Misconduct Policy and Procedure Guide](#) if the matter is serious and the behaviour identified does not meet the EPA values and policies as stipulated in the *EPA Code of Ethics and Conduct*.

# Appendix D Options for addressing issues

Here are some options to help restore respectful workplace relationships. Capability and Talent can provide advice in selecting the most appropriate option or combination of options if appropriate.

Option	Process
Direct, open discussion	People involved meet to discuss and work out a way to resolve the issue. Best when the people are keen to resolve it and if the issue has not been going on too long.
Facilitated discussion	People involved agree to be assisted by someone, such as a manager, who can help them stay focused on the issue.
Difficult conversation(s)	Consider how, when dealing with difficult conversations, to: <ul style="list-style-type: none"> <li>• make it comfortable for everyone to participate</li> <li>• help people notice and test their assumptions about the situation and each other</li> <li>• attack the issue, not the person</li> </ul> stay focused on the issue.
Independent advice	Approach someone who can provide advice or has a fresh or objective perspective, for example, the Employee Assistance Program or Anti-Discrimination Board.
Team discussions and workshops	When whole teams are affected, it is crucial that they be involved in talking through the issue in a structured, flexible way. Talk to your manager about the appropriateness of this approach.
My Talent Plan	The performance development plan process helps everyone understand clearly what they are expected to achieve, how to give and receive feedback on progress, and get support when their work requires them to develop existing or new skills.
Managing difficult behaviour	Some difficult or extreme behaviour requires specific responses from managers. Consider how you will acknowledge and address legitimate needs and concerns while not encouraging any behaviour that is difficult or destructive.
Coaching	A common approach to helping people individually is to help them consider their: <ul style="list-style-type: none"> <li>• Goals: what they want to achieve</li> <li>• Reality: what has happened, relevant history and future trends</li> <li>• Options: what ideas they have for reaching their goal</li> </ul> Plan of action: what next (what, who, when).
Conflict coaching	This is a structured individual conversation that helps the person get a new understanding of the issues and expands their thinking about the options available.
Rebuild trust and confidence	When relationships have deteriorated, it is useful to find any small aspect the parties can agree on and work from there. In one meeting, the best that might be possible is to establish a new start, and then support the people as they build a new way of working together, that is fairer and more respectful.
Mediation	Mediation is voluntary and usually requires a skilled and experienced mediator.
Manage change	Manage the introduction of change carefully. Occasionally the EPA changes workplace arrangements, procedures, policies or some other aspect of people's work. Sometimes change is difficult, and this can lead to tension which can trigger unfair and disrespectful behaviour. It can lead to the perception that the changes are unfair or disrespectful, resulting in specific incidents or a deterioration in workplace relations.